

IN THE HIGH COURT OF PUNJAB & HARYANA AT  
CHANDIGARH

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CRM-M-19029-2022

Date of decision: 12.05.2022

Kamal

... Petitioner

Vs.

State of Haryana

... Respondent

**CORAM: HON'BLE MR. JUSTICE SUVIR SEHGAL**

Present:- Mr. Prateek Rathee, Advocate for the petitioner.

Ms. Deepshikha Chauhan, DAG, Haryana  
for the State-respondent.

**SUVIR SEHGAL J. (ORAL)**

Vide the instant petition filed under Section 439 of the Code of Criminal Procedure, 1973 (for short 'the Code'), the petitioner seeks grant of regular bail in FIR No.277, dated 29.07.2021 lodged for offences under Section 6 of the Protection of Children from Sexual Offences Act, 2012 (for brevity 'the POCSO Act'), and Section 363, 366-A, 323, 120-B of Indian Penal Code, 1860 at Women Police Station, City Sohana, District Gurugram.

Version of the prosecution is that FIR, Annexure P-1 has been registered on the statement of father of 17 year old girl (hereinafter referred to as 'minor prosecutrix') on the allegation that at 9:30 a.m. he

received a phone call from Girls School Sohana, where his daughter is a student, that she has not appeared in the examination. He called his wife and enquired the whereabouts of his daughter and was told that she went to school at 8:30 am. He, along with his family members, went to the school and started searching for his daughter but did not find her. After his duty was over, he reached back home and found, that his daughter had come back. When asked, his daughter told him that two boys, 'A' (name withheld) and Kamal (present petitioner) who live in the neighbourhood, met her in the morning and told her that her father is calling her. As she trusted them, she went with them on a motorcycle and they took her to a deserted room, 'A' took her inside and 'committed wrong act' with her while Kamal stood outside. Thereafter they dropped her at Chilling Point. The place where 'wrong act' has been committed is located at Badshahpur. He requested that strict action be taken against the accused.

It has been vehemently argued by the counsel for the petitioner that there is no allegation of sexual assault against the petitioner. He urges that the petitioner, who is in custody since 29.07.2021 has been framed as he is a friend of the main accused, who is romantically involved with the prosecutrix.

Opposing the petition, upon instructions from SI Surender, State counsel has invited the attention of the Court to the age of prosecutrix as well as to the other incriminating material and has submitted that during her testimony the prosecutrix has alleged that the petitioner was also involved in sexual assault and he has been duly identified by the minor prosecutrix.

Heard counsel for the parties.

The minor prosecutrix is 17 years of age. Co-accused 'A', who is

a juvenile and is on bail, along with petitioner mislead her and took her to an abandoned room where she has been sexually assaulted. The version as recorded in the FIR has been duly supported by the minor prosecutrix and in the statement recorded under Section 164 of the Code, Annexure P-2, as well as in her testimony, Annexure P-3. In her deposition before the Court, the prosecutrix has stated that after ‘A’ went out of the room, present petitioner came inside and ‘ravished’ her. When she raised an alarm, both the accused dropped her to a place near her home.

Though the exact role of the petitioner would be subject of trial but his probable complicity in a heinous crime involving a minor is apparent from the accusation as well as the material relied upon by the State. Considering the nature of allegations levelled, gravity of offence allegedly committed by him and severity of punishment likely to be imposed in case he is convicted, this Court does not deem it appropriate to order his release on bail during the pendency of the trial.

Petition is dismissed.

Needless to mention, anything said hereinabove is solely for the purpose of the decision of the petition seeking regular bail and the trial Court will proceed with the trial uninfluenced by any observation made hereinabove.

12.05.2022

pooja saini

(SUVIR SEHGAL)  
JUDGE

|                           |        |
|---------------------------|--------|
| Whether Speaking/Reasoned | Yes/No |
| Whether Reportable        | Yes/No |